



Brian Sandoval
Governor



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State of Nevada
Department of Health and Human Services

2017 Legislation Affecting Child Care Facilities

Division of Public and Behavioral Health

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**Nevada Department of
Health and Human Services**

**DIVISION OF PUBLIC AND
BEHAVIORAL HEALTH**

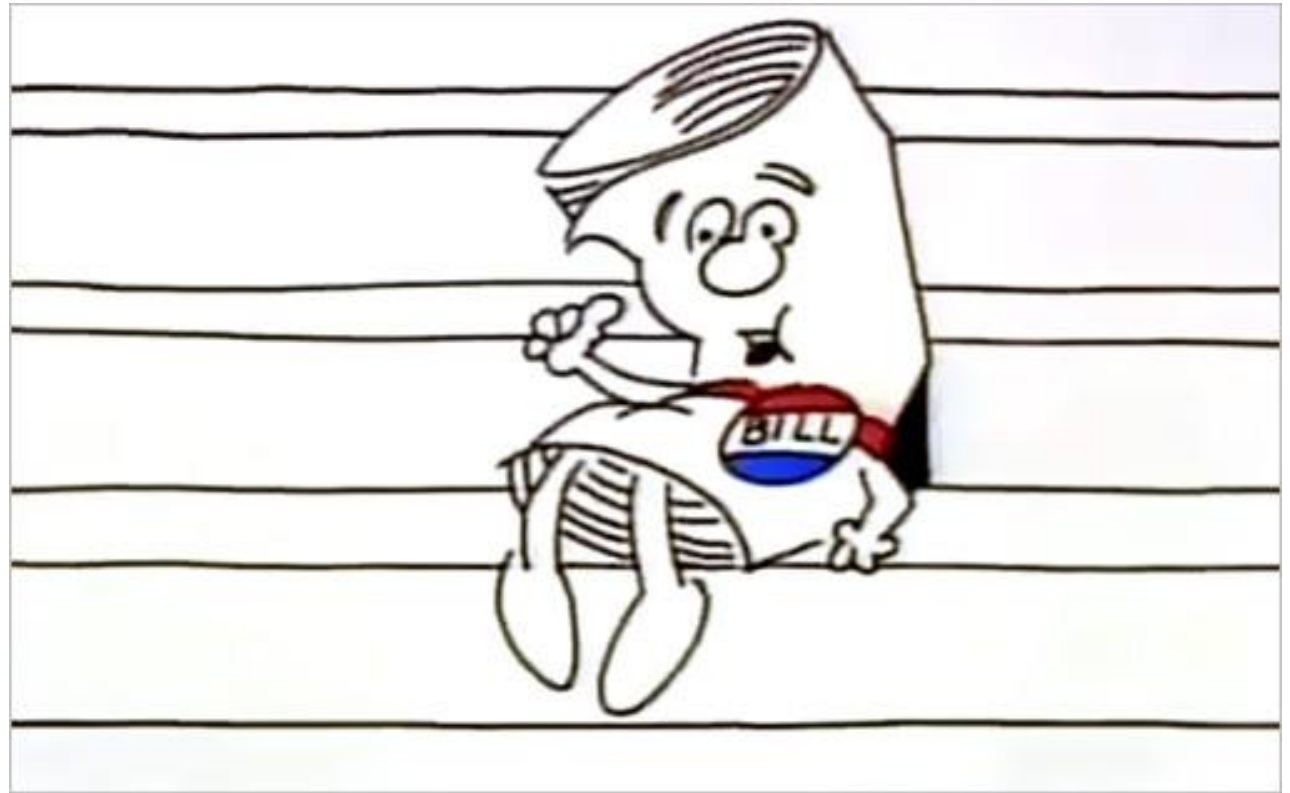
2017 Legislation Affecting Nevada Child Care Facilities

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Overview

- Passed by 2017 Nevada Legislature, signed by Gov. Sandoval
- Assembly bill = AB
- Senate bill = SB





5 New Laws

- AB 99 – Gender identity
- SB 46 – Adds disqualifying crimes on background checks
- SB 189 – Training requirements, independent contractors, grading system
- AB 346 – Regulation of “small child care establishments”
- AB 326 – Priority admission for children of veterans



AB 99: Gender Identity

A statute requiring facilities that regularly or occasionally have physical custody of children pursuant to the order of a court, such as, foster care homes, juvenile detention facilities, mental health facilities and child care institutions, to:

- Treat the children for whom the facility is responsible in accordance with the child's gender identity or expression.
- Require all staff working in such facilities to have training within 90 days after beginning employment and annually to have training in working with lesbian, gay, bisexual, transgender and questioning children.



AB 99: Changes to requirements for institutions

The new training that is required will be added to training topics that are already mandated in NRS 432A.177 for institutions:

- Controlling the behavior of children
- Policies and procedures concerning the use of force and restraint on children
- The rights of children in the facility
- Suicide awareness and prevention
- Applicable state and federal constitutional and statutory rights of children in the facility
- Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility
- Working with lesbian, gay, bisexual, transgender and questioning children



AB 99 – additional details

- Requires all staff that come into direct contact with a child in a child care institution receive the required training within 90 days of employment.
- The bill has increased the amount of time allowed to obtain the training from 30 days as previously required to 90 days.
- The training must be taken annually.
- Children placed in the applicable facilities must be informed of grievance procedures and provided a written summary of the process.



SB 46: Disqualifying Crimes

An act relating to public welfare; revising provisions governing background checks of operators, employees and certain adult residents of a child care facility; and providing other matters properly relating thereto.



SB 46 Applies To ...

... every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility who is 18 years of age or older.

Every employee over the age of 18 must complete the background process within 24 hours after hire and every five years thereafter.



Current list of crimes that make a person ineligible to work in child care

- Murder; voluntary manslaughter or mayhem
- Felony involving the use of a firearm or another deadly weapon
- Assault with intent to kill or to commit sexual assault or mayhem
- Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime
- Abuse, neglect, exploitation, isolation or abandonment of older persons or vulnerable persons, including, without limitation, or a law of any other jurisdiction that prohibits the same or similar conduct
- Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years




Newly added/modified crimes that make a person ineligible to work in child care

- Arson
- Assault
- Kidnapping
- Any offense relating to the distribution or manufacture of any controlled substance or any dangerous drug
- Battery, including, without limitation, battery which constitutes domestic violence
- Any crime against a child, including, without limitation, abuse, neglect or endangerment of a child contributory delinquency or pornography involving a minor
- Any offense relating to the possession or use of any controlled substance or any dangerous drug within the immediately preceding 5 years



SB 46: Appealing a determination

- Any employee who is denied clearance to work in a child care facility will have 30 days to appeal.
- The Division of Public and Behavioral Health will have a process to appeal, by which it may review evidence upon request to determine whether an employee has been convicted of a crime or has had a substantiated report of child abuse or neglect made against him or her.



SB 189: Training requirements, independent contractors, grading system

An act relating to public welfare; revising the amount and type of training that an employee of a child care facility is required to complete; setting forth certain requirements relating to services performed by an independent contractor at a child care facility; requiring the Division of Public and Behavioral Health of the Department of Health and Human Services to establish a system of rating child care facilities; revising provisions concerning certain background investigations required to be conducted by the Division; authorizing the imposition of administrative sanctions against a child care facility for certain violations; requiring the Legislative Auditor to report certain findings of an audit of a public or private facility for children to a licensing entity or the Division of Child and Family Services of the Department; requiring a licensing entity to conduct reviews of a child care facility after a legislative audit in certain circumstances; and providing other matters properly relating thereto.



SB 189: Updated Training Requirements

- Training requirements set forth are required for any licensed child care facility for 5 or more children, unlicensed child care providing care to fewer than 5 children under the age of 18 and receiving compensation.
- Each person who is employed in any child care facility shall complete at least 2 hours of training in the recognition and reporting of the abuse or neglect of a child:
 - Within 90 days after commencing his or her employment in a child care facility; and
 - At least once every 5 years thereafter.



SB 189: Independent contractors

- A licensee of a child care facility shall ensure that an employee of the facility is in the presence of a contractor hired by the child care facility (e.g. Tumblebus) during the period in which the contractor is performing any service at the facility when a child is present.
- The employee of the facility who is required to be in the presence of the contractor must:
 - Be qualified to supervise the children at the child care facility; and
 - Supervise and ensure the safety of each child at the child care facility



SB 189: New Grading System

- Regulations will be established to create a system for grading child care facilities based on inspections.
- The grading system will provide the assignment of a letter grade of A, B, C, or D to each child care facility based on the facility's compliance with the laws and regulations and the severity of any violations.
- Procedures by which a child care facility that is assigned a grade of C may request a follow-up inspection. D grade requires new inspection.



SB 189: New Grading System

- No more than 60 days after an inspection of a child care facility, the Division will post a report on a website maintained by the Division which will include:
 - The letter grade assigned to the child care facility based on the inspection; and
 - A report of each unresolved violation of a law or regulation, proposed actions to correct the violation, and the date by which the facility is expected to correct the violation.
- After each inspection, a child care facility shall post the letter grade assigned to the facility in a conspicuous place near each entrance to the facility that is regularly used by the public and inform any person of that letter grade upon request.



SB 189: Violations of laws and regulations

- If a child care facility violates any law or regulation related to its licensure, the Division may ...
 - Prohibit the facility from accepting additional children
 - Limit the number of children to which the facility may provide care
 - Impose an administrative penalty of not more than \$1,000 per day for each violation (failure to pay any penalty may result in a suspended license until the penalty is paid)
 - Appoint temporary management to oversee the operation of the facility
- ... until the Division determines the facility has corrected the violation and has management capable of ensuring continued compliance or improvements are made to correct the violation.



SB 189: Sanctions

- The Board of Health shall adopt regulations for imposing each sanction. The regulations must:
 - Prescribe the circumstances and manner in which the sanction applies
 - Minimize time between identification of violation and imposition of a sanction
 - Provide for the imposition of incrementally more severe sanctions for repeated or uncorrected violations
 - Provide for less severe sanctions for lesser violations



SB 189: Updated Disqualifying Crimes

- A violation of any federal or state law relating the distribution or manufacture of any controlled substance or dangerous drug as defined in Chapter 454 of NRS, including, without limitation, possession of a controlled substance for the purpose of sale
- A violation of any federal or state law regulating the possession or use of any controlled substance or dangerous drug as defined in chapter 454 of NRS within the immediately preceding 5 years



SB 189: Updated Disqualifying Crimes

- A violation that constitutes domestic violence pursuant to NRS 33.018 including, but not limited to the following;
 - Battery
 - Assault
 - Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain
 - Sexual Assault
 - Reckless course intended to harass the other person including, but not limited to: stalking, arson, trespassing, larceny, destruction of private property, carrying a concealed weapon without permit, injuring or killing an animal
 - False imprisonment
 - Unlawful entry of the other person's residence.



SB 189: Updated Disqualifying Crimes

- A violation of NRS 484C.430; Penalty if death or substantial bodily harm
 - A (meaning “one”) violation of NRS 484C.430
 - When under the influence of an intoxicating liquor, or controlled substance, or
 - Under the combined influence and of an intoxicating liquor and controlled substance ...
 - ... to a degree which renders the person incapable of safely driving or exercising actual physical control of a motor vehicle



SB 189: Updated Disqualifying Crimes

- A violation of NRS 484C.110 or 484C.120; affirmative defense; additional penalty for violation committed in work zone of pedestrian safety zone
 - A (meaning “one”) violation of unlawful acts of NRS 484C.110
 - When under the influence of an intoxicating liquor, or controlled substance, or
 - Under the combined influence and of an intoxicating liquor and controlled substance ...
 - ... to a degree which renders the person incapable of safely driving or exercising actual physical control of a motor vehicle



SB 189: Updated Disqualifying Crimes

- NRS 484.120: Unlawful acts relating to operation of commercial motor vehicle
 - A (meaning “one”) violation of unlawful acts of NRS 484.120
 - Under the influence of intoxicating liquor, or
 - Under the combined influence and of an intoxicating liquor and controlled substance ...
 - ... to a degree which renders the person incapable of safely driving or exercising actual physical control of a motor vehicle



SB 189: Training Hours

- Each person employed in a child care facility, other than a facility that cares for ill children, must have 24 hours of annual training. Each person who, as of January 1, 2018, is employed in a child care facility shall complete the training requirements before January 1, 2019.
- 12 hours of the annual training requirements must be devoted to the specific age group served by the child care facility. Two hours of the training required each year must be devoted to the lifelong wellness, health and safety of children and must include training relating to childhood obesity, nutrition and physical activity.



SB 189: Unlicensed or Suspended Facilities

- The Division of Public and Behavioral Health may issue an order to cease and desist the operation of the facility. The order is effective upon service.
- If the person does not cease operating the unlicensed child care facility within 30 days after the date of the order issued, or does not cease operating a child care facility with a suspended license, the Division may bring an action to the person or facility from operating without a license or with a suspended license.
- Upon a showing by the Division that a person is operating an unlicensed child care facility or with a suspended license, a court may:
 - Impose a civil penalty on the person of not more than \$10,000 for the first offense or not less than \$10,000 or more than \$25,000 for a second or subsequent offense.



SB 189: Outside Audits and Child Welfare

- If facility is being audited by any outside entity/agency that impacts the welfare of children in care, the report must be provided to Child Care Licensing.
- No later than 45 days after receiving a report, the Division shall review the facility to determine whether the facility has corrected the deficiencies as described.
- After conducting the review, the Division shall provide a report to the outside entity/agency. The report will include:
 - A determination of whether deficiencies have been resolved.
 - A description of the measures being taken by the facility to resolve the deficiencies, a determination of whether those measures are adequate and the expected date by which the deficiencies will be resolved.
 - A statement of any issues of fact or law on which the Division disagrees with the report.



SB 189: Outside Audits and Child Welfare

- If the Division determines that the child care facility has not resolved the deficiencies described in the report, the Division shall, no later than 30 days after completing the review:
 - Provide a copy of its report to each court or agency that places children in the facility and post the report publicly on a website maintained by the Division.
 - Schedule another review of the facility, which must be conducted no later than 30 days after the initial review was conducted.



AB 346: Small child care establishments

An act relating to child care; authorizing the operator of a small child care establishment to register with the Division of Welfare and Supportive Services of the Department of Health and Human Services; requiring certain persons who are employed at or otherwise present at a registered small child care establishment to undergo a criminal background check under certain circumstances; authorizing the Division of Public and Behavioral Health of the Department to collect from a child care facility or small child care establishment the costs relating to an investigation of a violation; providing for the inspection of such an establishment; providing a penalty; and providing other matters properly relating thereto.



AB 346: Small child care facility defined

- AB 346 defines the term “small child care establishment” to mean an establishment that furnishes care to not more than 4 children under 18 years of age who are not related to the operator of the establishment within the fourth degree of consanguinity or affinity:
 - For monetary compensation;
 - Outside the home and presence of the parents or guardians of any of the children; and
 - For at least 6 hours each day, at least 4 days a week and more than 3 consecutive weeks.



AB 346: Small child care registration

- Any person that wishes to operate a small child care establishment may register the small child care establishment with the Division of Welfare and Supportive Services
- Once registered, the operator and any residents 18 years of age or older must be background checked at least once every 5 years
- For further information visit the DWSS website at: <http://dwss.nv.gov> (for rules and regulations).



AB 346: Why register?


- Sense of security for parents.
- Operator and any persons 18 years or older must be background checked.
- A child's brain is 90% developed by the time they go to first grade; you could be part of that growth in a very positive way, making a difference in the life of a child.
- As a registered child care provider you would be making a very positive contribution to providing a safe, caring and nurturing learning environment for children, which research shows us contributes to better outcomes for children in our society.
- May qualify for Friends, Family and Neighbors subsidies.
- If there is a complaint of a child care operating out of the home, Child Care Licensing will investigate and if substantiated a fine may be imposed.



AB 326: Priority admission for children whose ...

- Parent or guardian is currently serving on active duty in the Armed Forces of the United States
- Parent was killed or died as a direct result of injuries received while serving honorably on active duty in the Armed Forces of the United States
- Parent is currently or within 180 days before the date on which the application for admission of the child is submitted, reported as a prisoner of war or missing in action while serving honorably on active duty in the Armed Forces of the United States

Questions?

- <http://dpbh.nv.gov> under “Child Care Facilities”
- Las Vegas phone: (702) 486-3822
- Carson City phone: (775) 684-4463
- Elko phone: (775) 753-1237
- Email: childcarelicensing@health.nv.gov
-  @nevadachildcarelicensing

Thank you!

